

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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VIRGINIA SMEDBRON,

ORDER

Plaintiff,

v.

19-cv-390-jdp

ANDREW SAUL,  
Commissioner of Social Security,

Defendant.

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Plaintiff Virginia Smedbron, through her attorney Dana Duncan, moves the court for an order awarding attorney fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. Dkt. 16. Attorney Duncan seeks \$4,190.14, in full satisfaction of any claim for fees and costs in this case. The Commissioner does not oppose the motion, and the parties agree that the court may assign the award to Attorney Duncan. Dkt. 21.

EAJA fees belong to the plaintiff as the prevailing party, not to her attorney. *See Astrue v. Ratliff*, 560 U.S. 586 (2010). The EAJA award is subject to offset to satisfy any pre-existing debt that the plaintiff may owe the United States. *Id.* If there is no pre-existing debt, the plaintiff may assign the fee award directly to her attorney. *See Mathews-Sheets v. Astrue*, 653 F.3d 560, 565 (7th Cir. 2011), *overruled on other grounds by Sprinkle v. Colvin*, 777 F.3d 421 (7th Cir. 2015).

After entry of this order, if counsel for the parties can verify that plaintiff owes no pre-existing debt subject to offset, then the Commissioner will direct that \$4,190.14 be paid to Attorney Duncan pursuant to the EAJA assignment signed by plaintiff and her counsel. Dkt. 17.

If plaintiff owes a pre-existing debt subject to offset in an amount less than the EAJA award, the Social Security Administration will instruct the U.S. Department of Treasury that any check for the remainder after offset will be made payable to plaintiff and mailed to the business address of plaintiff's attorney.

ORDER

IT IS ORDERED that plaintiff Virginia Smedbron's motion for attorney fees in the amount of \$4,190.14, Dkt. 16, is GRANTED.

Entered January 24, 2020.

BY THE COURT:

  
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JAMES D. PETERSON  
District Judge